Bills Signed or Filed Into Law

H2099 (Chapter 13)	AHCCCS; HOSPICE CARE; RESTORATION (~~MANDATED HEALTH COVERAGE REPORT; LEGISLATORS~~)

The list of services covered by AHCCCS and that AHCCCS contractors must provide is expanded to include hospice care. [note: according the legislative research staff, hospice care was funded in fiscal years 2007-08 and 2008-09 but was not funded subsequently.]

H2213 (Chapter 89)	DEVELOPMENTALLY DISABLED; TERMINOLOGY (~~TECH CORRECTION; CHILD CUSTODY~~)

Terms used to refer to developmental disabilities are changed throughout statutes, for example "mental retardation" is changed, depending on the context, to either "developmental disability" or "intellectual disability."

H2372 (Chapter 112)	CONSERVATORSHIPS; GUARDIANSHIPS; COUNTY REIMBURSEMENT

If a county pays for specified services for conservatorships or guardianships from the county general fund, the county is authorized to charge the estate for reasonable compensation.

H2415 (Chapter 196)	SCHOOLS; BULLYING POLICIES

Language stipulating the required duty of school boards to adopt and enforce policies and procedures to prohibit bullying are modified to include bullying done through electronic media via school computers. Districts must: adopt definitions of harassment, intimidation and bullying, adopt procedures designed to protect students who have been physically harmed through those actions, and provide all pupils, at the beginning of each school year, with a written copy of the rights, protections and support services available to a pupil who is the victim of bullying. The report of suspected cases of bullying must be in writing, and districts must maintain documentation of all reported incidents for at least six years.

H2627 (Chapter 176)	SUNSET REVIEW; FACTORS

The items that a legislative committee of reference may consider in its determination of whether to re-authorize a government department, agency or program is expanded to include whether the agency's

purpose is met by private enterprise in other states, the extent to which the agency serves the entire state rather than specific interests, and the extent to which the agency creates unexpected negative consequences, including its affect on the price of goods, availability of services and the ability of business and government to operate efficiently.

H2634 (Chapter 96)	DHS; HEALTH CARE INSTITUTIONS; RULES

By July 1, 2013, the Dept of Health Services must adopt rules regarding health care institutions to reduce costs to individuals, promote the use of "deemed status" for institutions accredited by a recognized national organization, and facilitate licensure of integrated health programs that provide both behavioral and physical health services. This process is exempt from statutory rule-making provisions. Session law only; does not amend statutes.

H2675 (Chapter 121)	FOOD STAMPS; BENEFIT CARDS; PENALTY

The list of acts that constitute unlawful use of food stamps is expanded to include the use, after an unlawful transfer, of the food stamps of another person.

S1038 (Chapter 141)	ASSISTED LIVING CAREGIVERS; REGULATION

The Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers replaces the Dept of Health Services as the entity that establishes rules governing the standards for assisted living facility training programs.

S1116 (Chapter 158)	UNIVERSITITES; EMPLOYEES, LOBBYISTS; PROHIBITED ACTS (~~DISPLACED PUPILS CHOICE GRANTS; CONTINUATION~~)

A person acting on behalf of a public university is prohibited from advocating support or opposition to pending or proposed legislation; exemptions are provided for lobbyists representing the Board of Regents and for instructors related to classroom instruction on elections, candidates, or proposed legislation. Additionally, with stated exceptions, public universities are prohibited from providing programs using public funds that advocate for a specific public policy or to permit publicly funded organizations to operate on campus if the purpose of the organization is to advocate for a specific public policy. An intent

section states this act is not intended to restrict freedom of speech or to curtail research or publication of information regarding public policy.

S1232 (Chapter 160)	DEVELOPMENTAL DISABILITIES ADVISORY COUNCIL; CONT

Retroactive to July 1, 2011, the statutory life of the Developmental Disabilities Advisory Council is extended 10 years to July 1, 2021. Also, the 12-member council is expanded to 17 by adding: a parent of a child served through the Arizona Early Intervention Program, a second member of the private sector that contracts with DHS to deliver services to persons with developmental disabiities, a second member who is developmentally disabled, a member representing a nonprofit that advocates for developmentally disabled children, and a member from the Human Rights Committee on the Developmentally Disabled. The powers of the council are expanded to include reviewing new policies or major policy changes before DHS submits the changes for public comment. The council also must review Auditor General reports regarding the Division of Developmental Disabilities in DHS.

S1612 (Chapter 24)	BUDGET; GENERAL APPROPRIATIONS; FY2011-12

The "feed bill" for FY2011-12, containing appropriations for state agencies and programs. Provisions include: continues deferment of $344 million in AHCCCS capitation payments until FY12-13; continues deferment of $35 million in payments to providers of services to the Dept of Economic Security; continues deferment of $953 million in basic state aid payments to schools until FY12-13; continues deferment of $200 million is payments to universities until FY12-13; reduces various agency appropriations for FY2010-11; makes supplemental appropriations for FY2010-11 to the Dept of Education for certain charter schools and to the State Land Dept for CAP water payments; and transfers monies from various funds to the general fund. Much more.

S1615 (Chapter 27)	BUDGET; CONSOLIDATION; STATE AGENCIES

Transfers the Government Information Technology Agency (GITA) to the Dept of Administration; transfers the Capitol Police to the Dept of Public Safety; and transfers the Dept of Mines & Minerals to the Arizona Geological Survey. Exempts the Rosenbaum Building and the Records Retention Center from state building rent until July 1, 2012. Of the monies in the Mines and Mineral Resources Fund, $32,000 is

transferred to the AZ Historical Society revolving fund and the remainder is transferred to the Geological Survey fund. Retroactive to July 1, 2011.

S1617 (Chapter 29)	BUDGET; BRB; K-12 EDUCATION; FY2011-12

Makes policy changes pertaining to K-12 education. Provisions include: replacing the Student Accountability and Information System (SAIS) with the Educatin Learning and Accountability (ELA) System; reduces soft capital funding by $188 million for FY11-12; places a moratorium on new school facilities construction and site acquisition for FY11-12; eliminates building renewal fund distributions to school districts for FY11-12; reduces additional assistance to charter schools in FY11-12; phases out the Career Ladder Program over five years, beginning in FY11-12; permanently eliminates the teacher performance pay multiplier; reduces state aid to JTEDs to 91% of statutory levels for FY11-12; suspends funding for the early graduation scholarship program and establishes a temporary moratorium on new program participants. For FY11-12, reduces by $182 million the amount of state aid that would otherwise have been apportioned for school districts for the capital outlay revenue control limit. Increases the charter school equalization assistance per-pupil amount for FY 2011-12 by 0.9%. Increases the Transportation Support Level per-mile amounts by 2 cents. Requires community colleges to transfer $6 per full-time equivalent student to the Dept of Education's Learning and Accountability Fund.

S1618 (Chapter 30)	BUDGET; BRB; HIGHER EDUCATION; FY2011-12

Makes policy changes in college and university programs that affect the state budget. Provisions include: capital outlay for community colleges is suspended for FY11-12; for FY11-12, the state match for money deposited in the Arizona Financial Aid Trust may be less than the 2-for-1 requirement in statute. Requires universities to annually report on graduation rates and retention rates by campus. An intent section states the Legislature desires that the Board of Regents and the three state universities recommend a funding structure that includes performance and outcome-based funding, a student-centered financial aid model, and a method that addresses the issue of per student funding dispariities among the three universities in the FY12-13 budget submittals. For FY11-12, the Board of Medical Student Loans is not required to apportion 50% of fund monies for students attending private medical schools. AS SIGNED BY GOVERNOR.

S1619 (Chapter 31)	BUDGET; BRB; HEALTH; FY2011-12

Makes various policy changes in the areas of public health that affect the budget. Provisions include: Beginning July 1, 2011, and subject to federal approval, AHCCCS members must pay a monthly premium of $15 with a household maximum of $60 and are responsible for $5 copays for office visits, $10 for urgent care visits, and $30 for emergency department visits. For dates of service beginning April 1, 2012, AHCCCS will reimburse ambulance providers 72.2% of the amount prescribed by the Dept of Health Services. Freezes the AHCCCS hospital reimbursement inflation adjustment. Transfers responsibility for children's rehabilitative services to AHCCCS from the Dept of Health Services. Allows the Dept of Health Services to assess a surcharge for vital records and requires 15% of the first $4 million collected in the Vital Records Fund to be deposited in the state General Fund. Sets the county contribution rates for acute care and long-term care for FY11-12. Withholds set amounts of sales tax revenue from each county for hospital and medical care and deposits the money in the AHCCCS system fund. Requires counties to reimburse the state for costs of incarcerating sexually violent persons. Requires AHCCCS Adminsitration to implement a program within the available appropriation if CMS does not approve the waiver application made by the governor on March 31, 2011. An intent clause stipulates the Legislature's desire to fund transplant services that were eliminated in 2010.

H2103 (Chapter 84)	HOMEMADE FOOD PRODUCTS; REGULATION; EXCEPTION

Rules relating to food or drink sold at the retail level must exempt baked and confectionary goods that are prepared in the kitchen of a private home for commercial purposes if they are not "potentially hazardous" (as defined in federal statute) and are clearly labeled with the address and contact information of the maker, the list of ingredients and a statement that the product was prepared in a home. If the product was prepared in a facility for the developmentally disabled, the label must disclose that fact. The person(s) preparing the food must obtain a food handler's card from the local county health department. Additionally, the Dept of Health Services must establish an online registry of food preparers registered to handle and prepare these products at home. AS PASSED SENATE.

Bills Awaiting Governor's Signature

H2211	**INPATIENT EVALUATION, TREATMENT (~~TECH CORRECTION; SCHOOLS; EARLY VOTING~~)**

Repeals and rewrites ARS 14-5312.02 pertaining to the conversion of a standard guardianship to a guardianship for a gravely disabled person. New language stipulates requirements that must be met whereby a ward of the guardian may be admitted to a facility for inpatient evaluation or treatment. AS PASSED SENATE.

H2402	**INCAPACITATED PERSONS; GUARDIANS**

The statute authorizing a court to appoint an emergency temporary guardian for an incapacitated person is rewritten to provide the court with an option to appoint both a guardian and a conservator but in either case the appointment cannot be for a period longer than 30 days. The court must appoint an attorney to represent the person in further proceedings and must order a hearing within 14 days to consider the continued need for a temporary guardian or conservator. Restrictions are placed on the sale of the person's assets if the appointed guardian is someone other than the public fiduciary. Also allows the court to suspend a ward's privilege to obtain or retain a driver license in some instances. AS PASSED HOUSE.

H2620	**MEDICAL RECORDS; DISCLOSURE; RELEASE**

A chapter regulating health information organizations (defined as those that store or transfer electronically individually identifiable health information) is added to Title 36 (public health & safety). A list of individual rights is provided, including the right to opt out of participation in a health information organization. Also, a clinical laboratory is authorized to disclose to an enumerated list of recipients a patient's lab results without written permission from the patient. The list of recipients includes health care providers currently treating the patient, ambulance attendants transferring the patient, a health profession regulatory board, etc. AS PASSED SENATE.

S1190	**DEVELOPMENTAL DISABILITIES; INTERMEDIATE CARE FACILITIES**

The Dept of Economic Security is required to conduct meetings with persons with cognitive or developmental disabilities who are served by intermediate care facilities or by skilled nursing facilties and with those

persons' parent/guardians to present placement options, including placement with private service providers. Meetings must be completed by Nov. 15, 2011, and a report must be submitted to the governor and Legislature by Dec. 1, 2011. The report must include an evaluation of efficiences gained by alternative placement, including placement with private service providers and the closing of state-operated facilities. Session law only; does not amend statutes. AS PASSED SENATE.

S1240 BEHAVIOR ANALYSTS; PRACTICE RECOGNITION; DHS

Changes the types of experience necessary to qualify for licensure as a behavior analyst to allow for independent field work, practicum or intensive practicum. Also the Dept of Health Services is required to recognize a licensed behavior analyst as a behavioral health professional who is eligible for reimbursement of services. AS PASSED HOUSE.

S1357 AHCCCS; MISSED APPOINTMENTS; PROVIDER REMEDY

If an AHCCCS member misses a scheduled appointment without canceling the appointment, a physician or primary care practitioner may prohibit the member from rescheduling until the member pays a $25 missed appointment fee. Additionally, until October 1, 2013, and subject to approval from the federal government, AHCCCS may authorize a political subdivision to provide monies that will call down federal matching funds to provide health care coverage to those made eligible for coverage by Prop 204 but who were removed from eligibility because general fund monies were unavailable. AS SENT TO GOVERNOR.

S1593 HEALTH INSURANCE; INTERSTATE PURCHASE

Hospital, medical, dental and optometric service corporations, health care services organizations, disability insurers, and group and blanket disability insurers located outside of Arizona (called foreign insurers") are permitted to write health or sickness insurance in Arizona if the insurer provides evidence to the Dept of Insurance that it is subject to the jurisdiction of another state's insurance department and that its required financial reserves are not less than the amount required in this state. If a foreign insurer does not provide coverage for any of the list of coverages mandated by Arizona law, insurers organized within this state are not required to provide that mandated coverage. Various registration and reporting requirements are installed. Severability clause. AS PASSED HOUSE.

Bills Vetoed

S1467	EDUCATIONAL INSTITUTION; CONCEALED WEAPONS

The governing board of any educational institution is prohibited from adopting or enforcing any policy or rule that prohibits the lawful possession of a weapon on a public right-of-way. AS PASSED SENATE.

S1592	HEALTH CARE COMPACT; FUNDING

The governor is authorized and directed to enter into an interstate compact pledging that the member states will take joint and separate action to secure the consent of the U.S. Congress to return the authority to regulate health care to the member states. The compact establishes an Interstate Advisory Health Care Commission to study issues of health care regulation and make non-binding recommendations to the member states. Commission funding is a responsibility of the member states. The compact is effective on its adoption by at least two member states and the consent of the U.S. Congress. AS PASSED SENATE.

Bill Narratives

HB 2099

Overview

HB 2099 adds hospice care to Arizona's covered health and medical services, and eliminates outdated language in Arizona Revised Statutes (A.R.S.) § 36-2907 and 36-2989.

HISTORY

Arizona Health Care Cost Containment System (AHCCCS) consists of contracts for *the provision of hospitalization and medical care coverage to members*. AHCCCS provides care to those that are determined eligible for the system. Arizona Revised Statutes § 36-2901.01 defines an eligible person as one who has an income level between zero and one hundred per cent of the federal poverty guidelines.

According to MedlinePlus, hospice care, also known as end of life care, is provided by health care professionals to help people nearing the end of their life pass in peace and comfort. Individuals receiving hospice care can expect to be provided medical, psychological and spiritual support. Services are also available to assist the family of the ill or deceased person. These services are provided at home, hospice centers, hospitals, and nursing facilities.

A footnote in the 2008-2009 fiscal years General Appropriations Act allowed Arizona Health Care Cost Containment System to provide hospice care services for acute care members. The footnote was not included in subsequent years.

PROVISIONS

- Establishes hospice care as a covered health and medical service.
- Eliminates outdated language in A.R.S. § 36-2907 and 36-2989.
- Makes technical and conforming changes.

HB 2103

OVERVIEW

HB 2103 permits baked and confectionary products that are not *potentially hazardous* to be made for commercial purposes if there is full disclosure of all pertinent information.

HISTORY

The Director of the Arizona Department of Health Services (DHS) must exercise general supervision over all matters concerning sanitation and health in Arizona. The Director is charged with adopting administrative rules (Rules) that prescribe the minimum safety standards for food and drink sold in the retail market. To protect the public, the standards must include the sanitary conditions for the facility in which the product is produced, processed, stored, served or transported. This includes warehouses, restaurants, premises, transport trucks or other vehicles used in the food industry. Additionally, the Rules must outline inspection and licensing procedures for the premises and vehicles. There are several exemptions to these requirements, including such things as charity events; work place social activities (pot-lucks); cooking schools in an owner-occupied home; and occasional non-commercial home-cooked food that is not *potentially hazardous*. (A.R.S. § 36-136)

Title 36, Section 136, Subsection D, Arizona Revised Statutes, authorizes the Director to delegate certain functions, powers and duties to the local or county health departments, or county environmental departments. This delegation of authority includes issues relating to food and drink processing.

In addition to the statutory requirements imposed by the State of Arizona, the county health departments have adopted pertinent health codes, permit requirements (depending on the type of business or operation), and approval standards for facilities.

PROVISIONS

- Permits baked and confectionary foods that are not *potentially hazardous* to be prepared in private home kitchens for commercial purposes if the label has the baker's address, contact information, and product ingredients. Additionally, the product label must disclose if the food preparation was conducted in a facility for the developmentally disabled.
- Requires the person preparing the food or supervising its preparation to obtain any required food handler's permit or certificate issued by the local health department and to register with the DHS online registry.

HB 2213

OVERVIEW

HB 2213 updates terminology relating to individuals who are developmentally disabled throughout the Arizona Revised Statutes.

HISTORY

According to a document released by the University of Minnesota, over six million individuals have developmental disabilities. A developmental disability if defined as a severe, chronic disability which originated at birth or during childhood, is expected to continue indefinitely and substantially restricts the individuals functioning in several life activities. A developmental disability results in substantial functional limitations in three or more of the following areas of major life activity, self-care, receptive and expressive language, learning mobility, self-direction, capacity for independent living and economic self-sufficiency. Examples of developmental disabilities include autism, behavior disorders, brain injury, cerebral palsy, Down syndrome, fetal alcohol syndrome, mental retardation and spina bifida.

PROVISIONS

- Updates terminology relating to individuals who are developmentally disabled throughout the Arizona Revised Statutes.
- Contains an effect of change in terminology clause.

HB 2372

OVERVIEW

HB 2372 stipulates that if a county pays for services by court appointed representatives the county may charge the estate for reasonable compensation.

HISTORY

Title 14, Chapter 1, Arizona Revised Statutes, states that if the court determines that an interest is not represented, or that representation is inadequate, the court may appoint a personal representative, conservator or guardian to receive notice, give consent and otherwise represent, bind and act on behalf of a minor, incapacitated person or an unborn child. If the court pays for these services, statute permits the courts to charge the estate for reasonable compensation and orders that those monies be deposited in the Probate Fund. Monies in the Probate Fund are administered by the presiding judge of the superior court in that county.

Currently, if a county pays for services by appointed representatives, conservators or guardians from general fund appropriations statute does not provide a way for the county to charge the estate for reimbursement.

PROVISIONS

- Stipulates that if a county pays for services by court appointed conservators and guardians from general fund appropriations the county may charge the estate for reasonable compensation.
- Directs the county treasurer to deposit the compensations collected in the same fund from which the expenditure was made

---

HB 2415

OVERVIEW

HB 2415 outlines additional reporting, disciplinary, and student-protection procedures to be adopted by school districts for bullying incidents.

HISTORY

Arizona Revised Statutes (A.R.S.) § 15-341 requires school districts to establish and enforce procedures to prevent pupil-to-pupil harassment, intimidation, or bullying, including procedures for reporting, documentation, and investigation of incidents, and disciplinary measures for those involved. Pupils must be given the opportunity to confidentially report incidents of harassment, intimidation or bullying to school officials and there must be a procedure by which parents may submit written reports of alleged incidents. Additionally, school district employees are required to report suspected

incidents to the appropriate school official. A formal process must be established for the documentation and investigation of reported incidents and the governing board is required to establish procedures for pupils who are found guilty of harassment, bullying, or intimidation, as well as prescribe consequences for submitting false reports.

A.R.S. § 15-843 requires a school district governing board to develop rules concerning the discipline, suspension, or expulsion of a pupil. Statute prohibits schools from using documentation of reported incidents of bullying to prescribe disciplinary action unless the appropriate school official has conducted an investigation and determined the incident actually occurred. Current law does not specify how long school districts must maintain records of bullying incidents.

PROVISIONS

- Directs school districts to implement the following requirements with regard to incidents of bullying, harassment, or intimidation, including incidents carried out through the use of electronic technology or electronic communication on school property:
  - Supply written forms designed to provide a full and detailed description of an incident.
  - Establish appropriate disciplinary procedures for employees who fail to report suspected incidents that are known to them.
  - Provide all pupils with a written copy of the rights, protections, and support services available to bullying victims at the beginning of each school year and provide that information to the alleged victims when an incident is reported.
  - Maintain records of reported incidents for at least six years.
  - Redact all individually identifiable information from materials documenting an incident if those documents are provided to persons other than school officials or law enforcement.
  - Develop procedures designed to protect the health and safety of victims who are physically harmed as the result of bullying or harassment, including, when appropriate, procedures for contacting emergency or law enforcement personnel, or both.
  - Formulate definitions of *harassment*, *intimidation*, and *bullying*.

HB 2627

OVERVIEW

HB 2627 makes various statutory changes to the factors that determine whether a state agency should be continued or terminated.

HISTORY

Laws 1978, Chapter 210 established Arizona's sunset review process. This process requires the Legislature to periodically review the purpose and functions of state agencies in order to determine whether the agency should be continued, revised, consolidated or

terminated. Sunset reviews are based on audits performed by either the Office of the Auditor General or a Committee of Reference (COR). Following the audit, a public hearing is held by the COR in order to discuss the audit and receive testimony from agency officials and the public.

Statute currently provides different factors for determining whether a state agency is continued, revised, consolidated or terminated (Arizona Revised Statutes § 41-2954). When the review is conducted by a COR, the state agency must respond with how the agency meets or does not meet the prescribed factors outlined in statute.

PROVISIONS

- Modifies the current sunset review factors in the following ways:
  - Adds the extent to which the objective and purpose are met by private enterprises in other states to the objective and purpose of the agency.
  - Measures the extent to which the agency meets its statutory objective.
  - Evaluates how the agency serves the entire state rather than specific interests or simply the public interest.
  - Redefines the extent to which the termination of the agency would *affect* the public health, safety or welfare rather than harm it.
  - Compares the level of regulation exercised by the agency to that of other states.
  - Measures the extent to which the agency has used private contractors in the performance of its duties in comparison to other states.
  - Evaluates the extent to which the agency might create unexpected negative consequences that could require additional review, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.
- Clarifies that the Committee of Reference would conduct additional review on the state agency if necessary.
- Makes technical and conforming changes.

HB 2634

OVERVIEW

HB 2634 directs the Department of Health Services (DHS) to adopt rules regarding health care institutions.

HISTORY

Within DHS, the Division of Licensing Services (Division) seeks to ensure public safety through certification, inspection, licensure, complaint investigation, training, quality improvement, and enforcement activities. The Division licenses and regulates healthcare institutions including assisted-living facilities, nursing homes, outpatient facilities, hospitals, hospices, home health agencies, and behavioral health facilities.

PROVISIONS

- Requires DHS on or before July 1, 2013 to adopt rules concerning health care institutions that:
  - Reduce monetary or regulatory costs on persons or individuals and streamline the regulation process.
  - Promote the use of deemed status for those *behavioral health* organizations that are accredited by recognized national organizations.
  - Facilitate licensure of integrated health programs that provide both behavioral and physical health services, and accommodate advances in clinical treatments for behavioral health.
- Exempts DHS, for the purposes of this act, from rule making requirements until July 1, 2013 and stipulates that DHS shall provide public notice that allows the public to comment on the proposed rules at least thirty days before the rule is adopted or amended.

HB 2675

OVERVIEW

HB 2675 adds to the criteria of an unlawful use of food stamps.

HISTORY

According to the Arizona Department of Economic Security (DES) the Nutrition Assistance program is designed to help low-income people add more nutritious foods to their diets. In January 2010 more than 431,000 families were receiving Nutrition Assistance. The amount of Nutrition Assistance depends on household size, income, and certain expenses. Items that may be bought with Nutrition Assistance Benefits include food products for human consumption, vegetable seeds, infant formula, diabetic foods, health foods, deposits on returnable bottles or containers, distilled water or ice for human consumption, items for preparation or preservation of food, and meals prepared or delivered.

Additionally, DES states that the U.S. Department of Agriculture establishes eligibility requirements for the program. This eligibility is bases on the household's resources, income and other requirements including residence, citizenship, and cooperation with the Supplemental Assistance Employment and Training program.

PROVISIONS

- States that a person has committed an unlawful use of food stamps if they use the food stamps of another person, after an unlawful transfer.

- Updates the definition of *food stamps*.

SB 1038

OVERVIEW

SB 1038 transfers regulatory oversight of training programs for assisted living facilities from the Arizona Department of Health Services (DHS) and the Private Postsecondary Board (PPS Board) to the Board of Examiners of Nursing Care Administrators and Assisted Living Facility Managers (Board).

HISTORY

Laws 1975, Chapter 141 established the Board which consists of eleven members appointed by the Governor. Members are appointed for two year terms and no member shall serve more than two, two year terms. The Board is required to meet at least twice a year.

The Board is charged with protecting the public health, safety and welfare by licensing and regulating nursing care institution administrators and certifying and regulating assisted living facility managers. The Board investigates all complaints, enforces all practice standards of the administrators and managers, and approves continuing education courses.

An assisted living facility is a residential care institution, including adult foster care that provides supervisory care services, personal care services or directed care services on a continuing basis. Assisted living facilities are required by DHS to be licensed. In order to be licensed an assisted living facility must ensure its manager is certified and both the manager and all employee caregivers have completed training from an approved training program.

PROVISIONS

- Specifies that a training program approved by the Board, that solely provides training for managers and caregivers of assisted living facilities, is exempt from the requirement to be licensed by the PPS Board.
- Removes the requirement that the Director of DHS prescribe standards for training programs for assisted living facilities.
- Removes the provisions that the Director of DHS may grant, deny, suspend and revoke approval of training programs for assisted living facilities and impose a civil penalty against a training program that violates this chapter or rules adopted pursuant to the chapter.
- Specifies that an assisted living facility program includes training required for assisted living facility manager certification and assisted living facility caregivers.
- Allows the Board by rule to adopt nonrefundable fees for the review of initial applications for assisted living facility training programs and the annual renewal of approved assisted living facility training programs.

- States that the Board by rule must prescribe standards for assisted living facility training programs.
- Allows the Board to grant, deny, suspend or revoke approval of, or place on probation, an assisted living facility training program and impose a civil penalty on an assisted living facility training program that violates this chapter or rules adopted pursuant to this chapter.
- Provides that the Board must issue a certificate as an assisted living facility manager when a person has satisfactorily completed a course of instruction and training approved by the Board that is designed and sufficiently administered to give the applicant knowledge of the proper needs to be served by an assisted living facility, includes a thorough background in the laws governing the operation of assisted living facilities and includes thorough training in elements of assisted living facility administration.
- Makes technical and conforming changes.

SB 1116

OVERVIEW

SB 1116 prohibits various advocacy related practices by the state universities.

HISTORY

A.R.S. § 15-1633 prohibits persons acting on behalf of state universities from using university personnel, equipment, materials buildings or other resources for the purpose of influencing the outcomes of elections. Additionally, the law prohibits university employees from using the authority of their positions to influence the vote or political activities of subordinate employees. The statute does not prohibit student political organizations of political parties from conducting lawful meetings in university buildings or on the university grounds, except when using university resources to influence the outcomes of elections.

PROVISIONS

- Prohibits an individual acting on behalf of a university from using university personnel, equipment, materials, buildings or other resources to advocate in support for or against pending or proposed legislation.
- Stipulates that the prohibition does not preclude any of the following:
  - A registered lobbyist from advocating on behalf of the university or Arizona Board of Regents (ABOR).
  - An employee of the university using personal time and resources from influencing the outcomes of elections or advocating in support or opposition of

pending or proposed legislation as long as the employee does not use university personnel, equipment, materials, buildings or other university resources.
  - A university employee from providing classroom instruction on matters relating to politics, elections, laws, ballot measures, candidates running for public office and pending legislation.

- Prohibits universities under the jurisdiction of ABOR from:
  - Providing publicly funded programs, scholarships or courses with the purpose of advocating for a specified public policy.
  - Allowing publicly funded organizations, institutes or centers to operate on the campus or on behalf of or in association with the university with a purpose of advocating for a specified public policy.
- States that the restriction does not pertain to:
  - Registered lobbyists working on behalf of the university, including other employees assisting university lobbyists.
  - A university employee who expresses a personal opinion on a political or policy issue.
  - Print or electronic media produced by enrolled students.
  - A recognized student government, club or organization of students.
  - Any university employee who is appointed to a government board, commission or advisory panel who provides expert testimony or guidance on public policy.
  - The publication of reports or hosting of seminars or guest speakers by the university that recommends public policy.
  - Researching, teaching and service activities of university employees that involve the study, discussion, intellectual exercise, debate or presentation of information that recommends public policy.
  - Any other type of advocacy that is allowed by law.

SB 1232

OVERVIEW

SB 1232 continues the Developmental Disabilities Oversight Advisory Council (Council) for ten years, changes the membership and adds new duties to the Council.

HISTORY

Laws 1974, Chapter 185 § 2 established the Council. The Council consists of ten voting and two non-voting members. The Council is charged with integrating and coordinating services provided by state agencies and providers under contract with the Arizona Department of Economic Security's (DES) Division of Developmental Disabilities (Division) to provide services to people with developmental disabilities and their families along with the health, safety, welfare and legal rights of persons with developmental disabilities.

Additionally, the Council implements the Developmentally Disabled State Plan, establishes and reviews division policies and programs, assesses the Division's annual needs, selects the assistant director of the Division and monitors the annual budget. Further, the Council is charged with responsibilities related to the management of the Client Services Trust Fund, which consists of proceeds of the sale of land formerly used by DES for the Arizona Training Program in Phoenix.

The House Health and Human Services and the Senate Public Safety and Human Services Committee of Reference met on December 16, 2010 and recommended that the Council be continued for ten years.

PROVISIONS

- Increases the membership of the Council from 12 to 17 members.
- Requires the Council to meet at least once a year in each district.
- Requires the Division to allow the Council to review new policies and major policy changes before being submitted for public comment.
- Specifies that the Council must review Auditor General Reports regarding the Division and services provided by the Department of Health Services.
- States that the Council must review and make recommendations regarding the Division's plan for service delivery and improvements along with the cost effectiveness of Division services.
- Eliminates the requirement for the Council to review and make recommendations on the annual rate setting methodology.
- Continues the Council until July 1, 2021.
- Contains a purpose statement.
- Provides a retroactive date of July 1, 2011.
- Makes technical and conforming changes.

HB 2211

OVERVIEW

HB 2211 repeals and rewrites the statutes related to inpatient evaluation or treatment.

HISTORY

Currently Arizona Revised Statutes (A.R.S.) § 14-5312.02 provides for the conversion of guardianship for a gravely disabled person. The guardian may petition for conversion and the petition must be accompanied by the opinion of a licensed physician who is a specialist in psychiatry or a licensed psychologist and that the ward is incapacitated due to a mental disorder and is currently in need of inpatient mental health care or treatment.

The court must appoint an attorney for the ward if the ward does not have one and the court may accept recommendations of the mental health expert and issue orders accordingly.

A.R.S. § 32-3284 outlines the provisions for the operation of a mental health care power of attorney (POA). The POA is effective when it is executed and remains in effect until it is revoked by the principal or by court order. The POA, if specifically authorized, grants the agent to admit the principal to a level one behavioral health facility (Facility), a principal must not be admitted to a Facility unless a licensed physician, with a specialty in psychiatry or a licensed psychologist has completed certain requirements. The Facility must conduct a review of the principal's condition and need for admission into the Facility and assess the appropriateness of the placement at least once every 30 days.

PROVISIONS

- Repeals and rewrites Arizona Revised Statutes § 14-5312.02.
- Allows a guardian who has been granted authority to consent to inpatient mental health care or treatment when the guardian has reasonable cause to believe that the ward is in need of inpatient evaluation or treatment to apply for admission o the ward to a Facility.
- Specifies the documents required to be presented to the Facility by the guardian in order for the ward to be admitted to the Facility and the documents must be currently effective.
- States that at the guardian's request, the Facility may admit the ward if the ward is examined by a physician and does the following:
  - Conducts an investigation that probes the ward's psychiatric and psychological history diagnosis, treatment needs and conducts a thorough interview with the ward and the guardian.
  - Obtains the guardian's informed consent and makes a written determination that the ward needs an inpatient evaluation or will benefit from care and treatment of a disorder or condition and that the evaluation or treatment cannot be accomplished in a less restrictive setting.
  - Documents in the ward's medical chart, a summary of the findings and recommendations for treatment.
- Allows the Facility to rely on the consent of the guardian for treatment, release and discharge decisions if, after admission, the ward refuses treatment or requests discharge and the treating physician believes further treatment in necessary.
- Allows, in cases of a mental health power of attorney, relating to involuntary court ordered evaluation or treatment, that the agent may apply for admission of the principal for evaluation or treatment at a Facility.
- Specifies the documents required to be presented to the Facility by the agent in order for the principle to be admitted to the Facility and the documents must be currently effective.

- Allows the Facility to rely on the consent of the agent for treatment, release and discharge decisions if, after admission, the principal refuses treatment or requests discharge and the physician believes further treatment is necessary.
- Makes conforming changes.

HB 2402

OVERVIEW

HB 2402 makes several changes to the statutes governing incapacitated persons including the establishment of court procedures for determining whether an incapacitated individual's privilege to drive should be suspended or retained; broadens the scope of powers for guardians; and expands the options that the court may exercise in an involuntary commitment proceeding.

HISTORY

Pursuant to Arizona Revised Statutes (A.R.S.) the Department of Motor Vehicles is prohibited from issuing a driver's license "to a person who has been adjudged to be incapacitated and who has not obtained a court order that allows the person to drive or a termination of the incapacity as provided by law." (A.R.S. § 28-3153). Under current law, the statutes are silent with regard to the court procedures for determining whether an incapacitated individual's privilege to drive should be suspended or retained.

A.R.S. Title 14, Chapter 5 covers the protections of persons under disability and their property. Within that Chapter, Article 3 governs how guardianship is established. A.R.S. § 14-5312.01 establishes that upon clear and convincing evidence that the ward is incapacitated as a result of a mental disorder and is currently in need of inpatient mental health care and treatment, the court may authorize a guardian to give consent for the ward to receive inpatient mental health care and treatment. That section also requires the authorizing guardian to file an annual evaluation report by a physician or psychologist. Under current law, the evaluation report is required to indicate if the ward currently needs inpatient mental health care and treatment.

A.R.S. Title 36, Chapter 5 covers mental health services. Within that Chapter, Article 4 and Article 5 govern how a person may be evaluated for and required to receive court ordered treatment. A.R.S. § 36-540 sets forth options a court may exercise in an involuntary commitment proceeding after finding a patient is in need of treatment. Under current law, a patient can be ordered to undergo treatment on four different grounds- when the patient suffers grave disability, when the patient is a danger to self, when the patient is a danger to others or when the patient is persistently and acutely disabled. Currently, a court is only allowed to order an investigation of the patient's need for guardianship or conservatorship in cases where the order for treatment is sought on grounds of grave disability.

Additionally, A.R.S. § 36-540 currently permits the court to appoint an immediate temporary guardian to protect a person only for a person found to be in need of treatment

on the grounds of grave disability. The law does not permit the court to appoint an immediate temporary conservator to protect the person's property.

Finally, A.R.S. § 36-540 currently allows the court to impose on an existing guardian the authority to admit the ward to a level one behavioral health facility for inpatient treatment (commonly referred to as a Mental Health Guardianship).

PROVISIONS

Procedures for Reinstating Privilege to Operate a Motor Vehicle

- Permits the court, on the appointment of a guardian, to determine whether the ward's driver's license is to be suspended.
- Allows the court to decline to suspend the ward's privilege to obtain or retain a driver's license if the court is presented with sufficient medical or other evidence to establish that the ward's incapacity does not prevent the ward's ability to safely operate a motor vehicle.
- States that unless the court finds a ward's ability to drive safely is affected by a finding of interim incapacity and that that the driver's license should be suspended, then a finding of interim incapacity will not cause the ward's driving privilege to be suspended.
  - Permits the court, in lieu of ordering the ward's driver license suspended, to order the ward not to drive a motor vehicle until the ward presents sufficient evidence to establish that the ward's interim incapacity does not affect their ability to safely operate a motor vehicle.
  - Allows the ward to present the medical or other evidence by motion to the court.
  - Authorizes the court to rule on the motion without a hearing if there are no objections to the motion.
- Permits a ward, whose privilege to obtain or retain a driver's license has been suspended by a court order, to file a request to terminate the suspension or revocation and reinstate the privilege.
- Requires the court, in reaching its decision, to consider medical evidence that the ward's incapacity does not prevent the ward from safely operating a motor vehicle.
- Permits the court to, in reaching its decision, consider other evidence, including a certificate of graduation from an accredited driving school with a recommendation that the ward should be extended driving privileges.
- Stipulates that if the court grants the order terminating the suspension or revocation and reinstates the privilege, the ward may apply to the Department of Transportation for the issuance or reinstatement of a driver license and requires the ward to comply with all department rules.
- States that any order terminating a temporary or permanent guardianship is an order terminating any previously adjudicated incapacity and vacates any previous order to suspend or revoke the ward's privilege to obtain or retain a driver's license.

- Permits the ward to apply to the Department of Transportation for the issuance or reinstatement of a driver license and requires the ward to comply with all department rules.

Guardian Powers

- Broadens the basis whereby a court is permitted to authorize a guardian to consent for inpatient mental health care and treatment to include the showing of clear and convincing evidence that the ward is incapacitated as a result of a mental disorder and is likely to be in need of inpatient mental health care and treatment within a one year period.
- Requires that the evaluation report indicate if the ward will likely need inpatient mental health care and treatment within a one year period.
- Terminates the guardian's authority to consent to treatment if the guardian does not file the evaluation report or indicates that the ward will not likely need inpatient mental health care and treatment.
- Permits the court to continue the guardian's authority to consent if the report supports the continuation of the guardian's authority to consent to inpatient treatment.
- States that, if the ward contests the continuation of the guardian's authority to consent to inpatient treatment, then the guardian has the burden of proving by clear and convincing evidence that the ward is likely to be in need of inpatient mental health care and treatment within the period of authority granted by law.

Court Options in an Involuntary Commitment Proceeding

- Broadens the basis whereby a court is permitted to order an investigation concerning the need for a guardian or conservator, or both, to include an order of the following findings, by clear and convincing evidence:
  - That the proposed patient, as a result of mental disorder, is a danger to self, is a danger to others, is persistently or acutely or gravely disabled and in need of treatment and there exists a reasonable cause to believe that the patient is an incapacitated person or is in need of protection.
- Limits the people whom the court may appoint to investigate the need for a guardian or conservator to a court appointed guardian ad litem and an investigator qualified as defined in A.R.S. § 14-5308.
- Removes the requirement that the court appoint as an investigator the mental health treatment agency that is providing inpatient or outpatient treatment and court appointed visitor.
- Broadens the basis whereby an order for a temporary guardian or conservator may be issued to include the following grounds:
  - The patient, as result of mental disorder, is a danger to self, is a danger to others, is persistently or acutely disabled or is gravely disabled and in need of treatment.
  - There is reasonable cause to believe that the patient is an incapacitated person as defined by law.
  - The patient does not have a guardian or conservator and the welfare of the patient requires immediate action to protect the patient or the ward's property.

- The conditions prescribed in the sections of law governing the court's ability to enter a finding of interim incapacity

- Permits the court to appoint as a temporary guardian or conservator a suitable person or the public fiduciary if there is no person qualified and willing to act in that capacity.

- Requires that the court take the following actions when an issue an order for investigation and appoint an attorney to represent the patient in further proceedings regarding the appointment of a guardian or conservator, unless the patient is represented by independent counsel:
  - Schedule a hearing, within 14 days, on the calendar of a court that has authority over guardianship or conservatorship matters to consider the need and appropriateness of an emergency temporary guardian or conservator.
  - Order the temporary guardian or conservator to give notice to those who are statutorily entitled.
  - Authorize certified letters of temporary emergency guardianship or conservatorship to be issued on presentation of a copy of the court's order.
  - Stipulates that if a temporary emergency conservator other than the public fiduciary is appointed, the use of money and property of the patient by the conservator is to be restricted and not to be sold, used, transferred, or encumbered.

- Permits the court to authorize the conservator to use money or property of the patient specifically identified as needed to provide for the care, treatment or welfare of the patient, pending further hearing.

- Clarifies that the subsection does not prevent or relieve the evaluation or treatment agency from the following duties:
  - Seeking guardianship and conservatorship in any other manner allowed by law at any during the period of court-ordered evaluation and treatment.
  - Its obligations concerning the suspected abuse of a vulnerable adult pursuant to title 46, chapter 4.

- Broadens the basis by which the court may impose additional duties on an appointed guardian by including the following grounds:
  - The patient, as result of mental disorder, is a danger to self, is a danger to others, is persistently or acutely disabled or is gravely disabled and in need of treatment.
  - There is reasonable cause to believe that the patient is an incapacitated person as defined by law.
  - The patient does not have a guardian or conservator and the welfare of the patient requires immediate action to protect the patient or the ward's property.
  - The conditions prescribed in the sections of law governing the court's ability to enter a finding of interim incapacity

- Permits the court to determine whether the patient needs to continue treatment under a court order or if the patient's needs can be adequately met by the guardian with the additional duties.

- Allows the court to terminate the court order for treatment if it finds that the court ordered treatment is no longer necessary to assure compliance with necessary treatment.
- Establishes that, unless the court orders otherwise, if there is a simultaneous court order treatment and a guardianship with additional mental health authority existing at the same time, the decisions by the treatment agency regarding the treatment and placement of the patient are controlling.
- Makes technical and conforming changes.

HB2620

OVERVIEW

HB 2620 adds a chapter to Title 36 of the Arizona Revised Statutes relating to Health Information Organizations (HIO). HB 2620 also amends existing statutes to accommodate the exchange of electronic health information.

HISTORY

Arizona law outlines requirements governing the maintenance and release of medical records. Current statute establishes that "unless otherwise provided by law, all medical records and payment records and the information contained in medical records and payment records, are privileged and confidential" (A.R.S. § 12-2292). However, state statute prescribes the circumstances in which a patient's medical records or medical information may be lawfully disclosed. A.R.S. § 12-2294 states that a health care provider may lawfully disclose medical records, payment records or the information contained in medical or payment records without the written authorization of the patient or the patient's health care decision maker to certain designated individuals or entities, such as current or previous health care providers for treatment or diagnosis, ambulance attendants, a health care accreditation agency or a health profession regulatory board. Statute also confers the right to health care providers to disclose medical records without the written authorization by the patient when such disclosure is otherwise permitted by law or if a court or tribunal of competent jurisdiction orders the disclosure (A.R.S. § 12-2294.A).

The Health Insurance Portability and Accountability Act (HIPAA) was enacted on August 21, 1996 (P.L. 104-191). HIPAA required the Secretary of the U.S. Department of Health and Human Services (HHS) to publicize standards for the electronic exchange, privacy and security of health information. Pursuant to the requirements of the legislation, HHS developed a proposed rule governing the privacy of individually identifiable health information. The regulation, known as the Privacy Rule, was published in its final form on August 14, 2002 (45 Code of Federal Regulations, Part 160 and Part 164, Subparts A and E). The Privacy Rule established a set of national standards

governing the protection of certain health information. The standards address the use and disclosure of individuals' health information as well as standards for privacy rights for individuals to understand and control how their health information is used.

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that sets minimum standards for most voluntary established pension and health plans in private industry to provide protection for individuals in these plans. There have been a number of amendments to ERISA expanding the protections available to health benefit plan participants and beneficiaries.

One amendment to ERISA is HIPAA which provides important new protections for working Americans and their families who have preexisting conditions or might otherwise suffer discrimination in health coverage based on factors that relate to an individual's health.

PROVISIONS

Individual Rights

- A HIO must provide the following rights to individuals:
  - To opt-out of participating in the HIO.
  - To request a copy of the individual's individually identifiable health information available through the HIO. The copy may be provided electronically, if the individual requesting the information consents to electronic delivery and the copy must be provided within 30 days. The HIO may provide this right directly or may require health care providers participating in the HIO to provide access to individuals.
  - To request an amendment of incorrect individual health information through the HIO.
  - To request a list of the persons who have accessed their health information within the past three years. The request must be provided within 30 days.
  - To be notified of a breach at the HIO that affects the individual's health information.
  - To allow the individual's health care decision maker to exercise all individual rights on their behalf, if the individual does not have the capacity to make health care decisions.
- Specifies that an individual has the right to opt-out of participating in a HIO by providing notice as explained in the HIO's notice of health information practices.
- Provides that an individual has the right to opt-out of a particular health care provider sharing the individual's individually identifiable health information through the HIO, provided that, if the health care provider is an employee of an organization, the organization may apply such opt-out to all health care providers employed by the organization.
- States that if an individual provides a notice of opt-out to a health care provider, the health care provider must provide that notice to the HIO.

- Allows an individual to change their decision to opt-out of participating in a HIO at any time by providing notice.

Notice of Health Information Practices

- Requires a HIO to maintain written notice of health information practices describing the following
  - Individually identifiable health information the HIO collects, the categories of persons who have access to information, purposes for which access to the information is provided, an individual's right to opt-out and an explanation as to how an individual can opt-out.
- Specifies that the notice must include a statement informing the patient of the right to choose to keep the patient's personal health information out of the HIO and that this right is protected by Article 27, Section 2, of the Arizona Constitution.
- Requires the HIO to post its current notice of health information practices on its web site and provide a copy of the notice within 30 days of receiving a written request for such notice.
- Specifies that a health care provider must provide the HIO's notice of health information practices in at least 12 point type to the provider's patients before at the provider's first encounter with a patient, beginning on the first day of the provider's participation in the HIO.
- Provides that the health care provider must document that it has provided the HIO's notice of health information practices to the patient and that the patient has received and read and understands the notice.
- States the documentation must be in the form of a signature by the patient indicating that the patient has received and read and understands the notice of health information practices and whether the patient chooses to opt-out.
- Specifies that as technology develops and electronic methods of receiving documents from the patient exist, the HIO is permitted to utilize electronic documentation.
- Provides that if a patient chooses to opt-out of the HIO, the patient's personal health information must not be accessible through the HIO no later than 30 days after the patient opts-out.
- Requires, if there is a material change to the HIO's notice of health information practices, a health care provider must redistribute the notice of health information practices at the next point of contact with the patient.

Other HIO Requirements

- Allows a HIO to disclose an individual's individually identifiable health information only if:
  - The individual has not opted out of participating in the HIO.
  - The type of disclosure is explained in the HIO's current notice of health information practices.
  - The disclosure complies with HIPAA.

- Prohibits a HIO from selling or making commercial use of an individual's individually identifiable health information without the written consent of the individual.
- Prohibits a HIO from transferring individually identifiable health information or deidentified health information to any person or entity for the purpose of research unless the health care provider obtains consent from the individual.
- Specifies a health care provider must document that it has provided a notice of transfer to the individual and that the individual has received and read and understands the notice and provides the documentation must be in the form of a signature by the individual.
- Mandates that a HIO must implement and enforce policies governing the privacy and security of individually identifiable health information and outlines what those policies must contain.
- States that individually identifiable heath information is not subject to subpoena directed to the HIO unless specific criteria are met.
- Requires health care providers who participate in a HIO to maintain their own patient records.
- Specifies that participation in a health information organization does not impact the content, use or disclosure of medical records or information contained in the medical records that are held in locations other than the health information organization.
- Specifies that this chapter does not limit, change or otherwise affect a health care provider's right or duty to exchange medical records or information contained in medical records in accordance with applicable law.

Miscellaneous

- Allows a clinical laboratory to disclose clinical laboratory results without the written consent of the patient or the patient's health care decision maker as authorized by state or federal law, including HIPAA.
- Adds conforming HIPAA language to Arizona Revised Statutes §§12-2294, 36-135, 36-470, 36-509, 36-664 due to the addition of Chapter 38, Health Information Organizations. .
- Specifies that a clinical laboratory that acts in good faith is not liable for damages in any civil action for the disclosure of clinical laboratory results or clinical laboratory results.
- Specifies that a health care entity that acts in good faith is not liable for damages in any civil action for the disclosure of records or payment records that are made pursuant to this article or as otherwise provided by law and states the health care entity is presumed to have acted in good faith and this presumption may be rebutted by clear and convincing evidence.
- Adds health care providers, clinical laboratories and persons or entities that provide services to providers and labs to the computer tampering statute.

- Requires DHS to release a person's identifying information in the Arizona State Immunization Information System (ASIIS) to the following:
  - The person.
  - The person's health care decision maker.
  - The person's parent or guardian.
  - The person's health care provider.
  - An entity regulated by the Arizona Department of Insurance.
  - A person or entity that provides services to a health care provider and with whom the health care provider has a business associate agreement that requires the person or entity to protect the confidentiality of the information as required by HIPAA privacy standards.
- Allows DHS to release identifying information to an entity designated by the person or the person's health care decision maker, parent or guardian.
- Specifies that persons or entities who are authorized to receive ASIIS information may only disclose that information as permitted by law or DHS rules.
- Authorizes DHS to adopt rules to designate other individuals or entities who may receive ASIIS information.
- Removes the existing requirement in the communicable disease information statutes, which requires a written notice to accompany any disclosure of this information.
- Defines the terms *breach, clinical laboratory, health care decision maker, health care provider, health information organization, individual, individually identifiable health information, medical records, opt-out, person, treatment* and *written.*

SB 1190

OVERVIEW

SB 1190 requires the Department of Economic Security (DES) to hold meetings with developmentally disabled individuals living in certain institutional settings and their parents or guardians to present placement options.

HISTORY

According to DES, as of June 30, 2010, the Division of Developmental Disabilities (DDD) provides services and programs to 30,667 people with developmental disabilities. To be eligible for DDD services, a person must have a chronic disability that is manifested before the age of 18 and is attributable to a cognitive disability, cerebral palsy, epilepsy or autism. The person also must have substantial limitations in specified life functions. Individuals with developmental disabilities who qualify for services through DDD may also be eligible for services through the Arizona Long Term Care System (ALTCS), which provides long term and acute care services to individuals with

developmental disabilities who are at risk of institutionalization and who meet financial eligibility criteria.

DDD provides services in a variety of living environments. According to DES, as of June 30, 2010 a total of 201 clients lived in institutional settings, which consist of nursing facilities and intermediate care facilities for the mentally retarded (ICF/MRs). A *nursing facility* is a Medicaid certified facility that provides inpatient room, board and nursing services to individuals who need them on a continuous basis but do not require hospital care or direct daily care from a physician. An *ICF/MR* is a facility whose primary purpose is to provide health, habilitative, and rehabilitative services to people who require them on a continuous basis. There are five ICF/MRs in Phoenix, four of which are operated by DDD. Approximately 30 people currently reside in those four facilities.

PROVISIONS

- Provides, as session law, that DES must conduct meetings with individuals with cognitive or developmental disabilities who are served by state ICFs for persons with an intellectual disability, skilled nursing facilities or ICF and their parents or guardians to present placement options, including placement with private service providers.
- Specifies that DES must submit a report to the governor and the legislature, with a copy to the secretary of state, which may include an evaluation of opportunities for efficiencies identified through the meetings.
- Requires DES to consult with the Developmental Disabilities Advisory Council and the Developmental Disabilities Planning Council in the development of the informational materials provided to persons with disabilities, parents and guardians at the meetings.
- Contains a content section regarding the use of current terminology.

SB 1240

OVERVIEW

SB 1240 outlines the training requirements for an applicant for licensure as a behavior analyst and requires the Department of Health Services (DHS) to recognize a behavior analyst that is licensed, as a behavioral health professional who is then eligible for reimbursement for services rendered.

HISTORY

Laws 2008, Chapter 288, § 2 established the licensure and regulatory framework for behavior analysts under the Board of Psychologist Examiners (Board). As it relates to behavior analysts, the Board is charged with establishing fees and ensuring that applicants and licensees meet the qualifications, education, training, examination, and continuing education requirements. The statute also included exemptions from licensure. The Board may issue a license to a behavior analyst from another state if the applicant meets certain qualifications.

Additionally, the Board is charged with executing disciplinary and investigative actions. Laws 2008, Chapter 288, § 2 sets forth confidentiality provisions and allows the Board to file for an injunction under certain circumstances. Further, the statute stipulates that it is a Class 2 misdemeanor for anyone not licensed to engage in the practice of behavior analysis, to secure a license to practice by means of fraud or deceit, impersonate a member of the Board in order to issue a license to practice, or to use any combination of words, initials, and symbols that may lead the public to believe the person is licensed to practice as a behavior analyst.

Arizona Revised Statutes § 32-2091 defines *behavior analysis* as the design, implementation, and evaluation of systematic environmental modifications by a behavior analyst to produce socially significant improvements in human behavior.

PROVISIONS

- Specifies that an applicant for licensure as a behavior analyst must complete a minimum of 1,500 hours of supervised work experience (SWE), independent fieldwork (IF), university practicum (UP) or intensive university practicum (IUP).
- Allows the SWE, IF, UP or IUP to run concurrently with coursework, if the applicant completes a degree and coursework requirements in the practice of behavior analysis after January 1, 2000.
- Specifies the SWE, IF, UP or IUP must include supervision at least once every two weeks for 5% of the total hours the applicant spends in the SWE, IF, UP or IUP.
- Specifies that the total hours spent on SWE, IF, UP or IUP must not be more than 30 per week and the total hours must be at least 75.
- The SWE, IF, UP or IUP must meet nationally recognized standards for behavior analysts as determined by the Board.
- Specifies that the SWE, IF, UP or IUP must include:
  - Conducting behavioral assessments and assessment activities related to the need for behavioral interventions.
  - Designing, implementing and monitoring behavior analysis programs for clients.
  - Overseeing the implementation of behavior analysis programs by others.
  - Other activities normally performed by a behavior analyst that are directly related to behavior analysts.

- Specifies that the following are not considered SWE, IF, UP or IUP:
  - Attending meetings with little or no behavior analytic content.
  - Providing interventions that are not based in behavior analysis.
  - Doing nonbehavior analytic administrative activities.
  - Any other activities that are not directly related to behavior analysis.
- Specifies that a supervisor must observe the applicant engaging in behavior analytic activities in the natural environment.
- Prohibits an applicant's relative, subordinate or employees from conducting the supervised SWE, IF, UP or IUP.
- States that the supervisor must be a licensed behavior analyst for any applicant who obtained supervised experience after January 1, 2011.
- Allows the Board to grant an exception to an applicant that completed the SWE, IF, UP, or IUP under a supervisor who worked in a state that did not license behavior analysts during the period in which the supervision was obtained.
- Requires DHS to recognize a licensed behavior health analyst as a behavioral health professional who is then eligible to receive reimbursement for services.
- Requires DHS to adopt rules to include behavior health analysts in the list of behavioral health professionals.
- Exempts DHS, for purposes of recognizing behavior analysts as licensed professionals, from the rule making requirements for one year after the effective date of this act.

SB 1357

OVERVIEW

SB 1357 allows Arizona Health Care Cost Containment System (AHCCCS) providers to charge a $25 missed appointment fee to AHCCCS patients before allowing them to reschedule an appointment. Additionally, the bill permits a political subdivision of this state to provide AHCCCS with the monies necessary to receive federal matching funds.

HISTORY

AHCCCS is Arizona's Medicaid program. The program consists of contracts for the provision of hospitalization and medical care coverage to members. AHCCCS oversees contracted health plans in the delivery of health care for individuals in Medicaid and other medical assistance programs.

In compliance with A.R.S. § 41-2091, AHCCCS shall have on file substantive advisory policy statements. AHCCCS Administrative Rule R9-22-702 outlines the charges allowable to its members. As stated in the Rule, if the provided services are covered and the patient is a current member, the provider may in certain circumstances charge, submit a claim to or demand or collect payment. These circumstances are as follows: to collect

an authorized co-payment; to recover a duplicate payment made by a third party, if payment is not assigned to the health plan contractor; and to obtain payment from a member for medical expenses incurred during a period when the member intentionally withheld information or provided inaccurate information that caused payment to the provider to be reduced or denied.

Provisions

- Permits AHCCCS providers to charge a $25 missed appointment fee to AHCCCS patients who miss a scheduled appointment with a physician or primary care practitioner and fail to cancel before the time for which it is scheduled before allowing the patient to reschedule.
- Allows a political subdivision of this state, through September 30, 2013, to provide AHCCCS with the monies necessary to receive federal matching funds for the purpose of providing health care coverage to individuals who would have been eligible for coverage pursuant to A.R.S. § 36-2901.01 had additional state General Fund monies been available.
- States that health care coverage shall only be offered through providers or health plans that are designated by the political subdivision.
- Defines *political subdivision.*

SB 1593

OVERVIEW

SB 1593 allows foreign insurers to issue policies relating to health or sickness coverage in Arizona.

HISTORY

The Director of the Department of Insurance (Director) is responsible for the licensing and monitoring of insurance companies and insurers. Title 20, Arizona Revised Statutes (A.R.S.) outlines the various types of insurance authorized by the Department of Insurance including hospital, medical, dental and optometric service organizations (HMDO), health care service organizations (HCSO) and disability (DI), group disability (GDI) and blanket disability (BDI) insurances.

As part of the application process, an insurer must obtain from the Director a Certificate of Authority (Certificate) which serves as evidence of its authority to transact the kind of insurance specified in the Certificate in Arizona (A.R.S. § 20-217). The Director currently uses the Uniform Certificate of Authority Application form as prescribed by the National Association of Insurance Commissioners, which must be supplemented with additional documents. These documents include a copy of its bylaws, its annual statement, the most recent examination report and appointment of a statutory agent to receive service of legal process. Alien or foreign applicants must submit a copy of the

types of insurance to be transacted, its corporate charter, the appointment and authority of its United States manager, appointment of the Director as its attorney to receive service of legal process, certificate of the public official having supervision of insurance in its state or country of domicile showing its authorization to transact proposed insurance and a certificate of deposit of trust with the state Treasurer (A.R.S. § 20-215).

PROVISIONS

- Allows insurers of the same type as HMDOs, HCSOs, DIs, GDIs and BDIs that issue policies, contracts, plans, coverages or evidences of coverage and hold a Certificate in another state to issue health or sickness insurance in Arizona.
- Authorizes a person to purchase a policy, contract, plan, coverage or evidence of coverage if the foreign insurer provides evidence to the Director that while providing health or sickness insurance:
  - The insurer is subject to the jurisdiction of another state's insurance department.
  - The insurer's Certificate requires the insurer to maintain financial reserves of not less than the amount required in Arizona.
- States that foreign insurers that issue policies relating to health or sickness coverage must meet the benefit requirements of the state where the foreign insurer holds a Certificate.
- Requires a foreign insurer to register with the Department of Insurance (DOI) before issuing a policy by submitting an application and a fee as established by the Director.
- States that if a foreign insurer issues a policy relating to health or sickness coverage in Arizona that does not include a state mandated health coverage, an insurer holding a Certificate from Arizona may issue a policy that does not include that state mandated health coverage.
- Requires a foreign insurer to notify DOI if the insurer has been subject to any regulatory action level event in the state where the insurer holds a Certificate.
- Allows the Director to revoke a foreign insurer's registration if any of the following apply:
  - The state that issued the insurer's Certificate changes its financial reserve requirements to be less than the amount required in Arizona.
  - The Director establishes that the state that issued the insurer's Certificate has identified and repeatedly enforced penalties on the insurer for violations related to claim denials, prompt payment, poor customer service, deceptive marketing practices or fraudulent activities.
  - The foreign insurer failed to comply with the Unfair Practices and Frauds statute.
  - The foreign insurer failed to comply with the Insurance Information and Privacy Protection statute.
  - The foreign insurer failed to comply with the Timely Payment of Claims statute.
  - The insurer has been subject to any regulatory action level event in the state where the insurer holds a Certificate.

- Stipulates that if the Director revokes a foreign insurer's registration, the Director shall not register the foreign insurer for two years from the date of revocation.
- Specifies the language that must be printed as a notice at the beginning of each application for a policy, contract, plan, coverage or evidence of coverage for health or sickness issued by a foreign insurer in 12-point boldface type.
- Requires each foreign insurer that issues any policy, contract, plan, coverage or evidence of coverage for health or sickness coverage to file an annual report of its financial condition, transactions and affairs as of the preceding December 31st with the Director by March 1st.
- Permits Arizona residents who obtain a policy from a foreign insurer and the foreign insurer itself to participate in the Health Care Appeals process.
- Allows the Director to adopt rules to implement the regulations for foreign insurers.
- Allows a court of Arizona to exercise jurisdiction over a foreign insurer regarding a policy issued in Arizona relating to health or sickness coverage.
- Clarifies that *foreign insurer* means an insurer that is formed under the laws of another state of the United States.
- Adds foreign insurers that issue policies relating to health or sickness coverage to the definitions of *insurance company*, *insurer*, *insurance institution* and *health care insurer*.
- Contains a severability clause.
- Makes conforming changes.

SB 1467

OVERVIEW

SB 1467 prohibits any educational institution governing board from adopting or enforcing any policy or rule that prohibits the lawful possession or carrying of a weapon on a public right-of-way.

HISTORY

Currently under Arizona Revised Statutes (A.R.S.) § 13-2911, the governing board of an educational institution is required to adopt rules, and provide a program for enforcement, to maintain public order on all property. As outlined in statute, any deadly weapon, dangerous instrument, or explosive that is used, displayed, or otherwise possessed by an individual in violation of a governing board rule is required to be forfeited and sold, destroyed, or disposed of in another manner. The governing board is also required to prescribe and enforce policies and procedures that prohibit a person from carrying or possessing a weapon on school grounds unless the person is a peace officer or has obtained specific authorization from the school administrator (A.R.S. § 15-341).

Educational institution is defined as any university, college, community college, high school or common school in this state.

PROVISIONS

- Prohibits any educational institution governing board from adopting or enforcing any policy or rule that prohibits the lawful possession or carrying of a weapon on a public right-of-way.
- Makes technical and conforming changes.

SB 1592

OVERVIEW

SB 1592 authorizes and directs the governor to enter into a Health Care Compact (Compact) on behalf of Arizona with any state lawfully joined in the Compact.

HISTORY

Article 1, Section 10, Clause 3 of the U.S. Constitution reads: “No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.”

Title 4, United States Code, Section 112 reads: "(a) The consent of Congress is hereby given to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. (b) For the purpose of this section, the term *States* means the several States and Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and the District of Columbia."

The Health Insurance Portability and Accountability Act (HIPAA) was enacted on August 21, 1996 (P.L. 104-191). HIPAA required the Secretary of the U.S. Department of Health and Human Services (HHS) to publicize standards for the exchange, privacy and security of health information. HIPAA defines *health care* as “care, services, or supplies related to the health of an individual. Health care includes, but is not limited to, the following: (1) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and (2) sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.”

PROVISIONS

- Authorizes and directs the governor to enter into a Compact on behalf of Arizona with any other state that is lawfully joined in the Compact.

Findings

- Finds that:
  - The separation of powers between the branches of federal government and between federal and state authority is essential to the preservation of individual liberty.
  - The Constitution creates a federal government of limited and enumerated powers and reserves to the states or to the people those powers not granted to the federal government.
  - The federal government has enacted laws that have preempted state laws with respect to health care and placed increasing strain on state budgets.
  - The member states seek to protect individual liberty and control over personal health care decisions and believe the best method to secure control is by vesting regulatory authority over health care in the states.
  - By acting in concert, states may express and inspire confidence in each member state's ability to effectively govern health care.
  - Member states recognize that consent of Congress may be more easily secured if member states collectively seek consent through an interstate compact.

Pledge

- States that member states must take joint and separate action to secure the consent of Congress to the Compact to return the regulatory authority of health care to the member states consistent with the Compact's articulated goals and principles.
- States that member states must improve health care policy within their respective jurisdictions, according to the judgment and discretion of each member state.

Legislative Power

- Asserts that legislatures of the member states have the primary responsibility to regulate health care in their respective states.

State Control

- Allows each member state to suspend by legislation the operation of all federal laws, rules, regulations and orders regarding health care that are inconsistent with the laws and rules adopted by the member state pursuant to the Compact.
- Specifies that federal and state laws, rules, regulations and orders regarding health care remain in effect unless a member state suspends them.
- States that a member state must be responsible for the associated funding obligation in its state for any federal law, rule, regulation or order that remains in effect.

Funding

- Provides that each member state has the right to federal monies up to an amount equal to its member state current year funding level for that federal fiscal year to support the exercise of member state authority under the Compact.
- Specifies that by the start of each federal fiscal year, Congress must establish an initial member state current year funding level for each member state. The final member state current year funding level must be calculated, and funding must be reconciled by Congress based on information provided by each member state and audited by the United States Government Accountability Office.

Interstate Advisory Health Care Commission

- Establishes the Interstate Advisory Health Care Commission (Commission) which consists of two members appointed from each member state and a member state may withdraw membership from the Commission at any time.
- Specifies that each Commission member is entitled to one vote and the Commission must not act unless a majority of the members are present and no action is binding unless approved by a majority.
- Allows the Commission to elect a chairperson and adopt and publish bylaws and policies and the Commission must meet at least once a year and may meet more often.
- Permits the Commission to study issues of health care regulation that are of particular concern to the member states. The Commission may make nonbinding recommendations to the member states and the legislatures of the member states may consider the recommendations.
- Requires the Commission to collect information and data to assist the member states in their regulation of health care. The Commission must make the information and data available to the legislatures of the member states.
- Specifies the Commission must be funded by the member states. The Commission will have the responsibilities and duties conferred upon it by the legislatures of the member states.
- States that the Commission must not take any action within a member state that contravenes any state law.

Congressional Consent

- Specifies the Compact shall be effective on its adoption by at least two member states and consent of Congress.
- Outlines that the Compact will be effective unless Congress, in consenting to the Compact, alters the fundamental purposes of the Compact which are to:
  - Secure the right of the member states to regulate health care in their respective states pursuant to this compact and to suspend the operation of any conflicting federal laws, rules, regulations and orders within their states.
  - Secure federal funding for member states that choose to invoke their authority under the Compact.

Amendments

- Allows the member states, by unanimous consent, to amend the Compact without prior consent or approval of Congress and any amendment must be effective unless, within one year, the Congress disapproves the amendment.
- Allows any state to join the Compact after the date that Congress consents to the Compact by the adoption into law under its state constitution.

Withdrawal and Dissolution

- Specifies that a member state may withdraw from the Compact by adopting a law to that effect, the withdrawal must not take effect until six months after the governor of the withdrawing state has given notice to the other member states.
- States that a withdrawing state must be liable for any obligations that it may have incurred before the date on which its withdrawal becomes effective.
- Provides that the Compact is dissolved on the withdrawal of all but one of the member states.

Definitions

- Defines the terms *commission, current year inflation adjustment factor, effective date, health care, member state, member state base funding level, member state current year funding level* and *member state current year population adjustment factor.*